C. A.
1913
Dec. 9, 10.

BEBB *v.* LAW SOCIETY.

[1913 B. 305.]

Solicitor — Profession — Admission of Women — Disqualification — Inveterate Usage—Solicitors Act, 1843 (6 & 7 *Vict. c.* 73), *s.* 48.

Before the passing of the Solicitors Act, 1843, women were by the common law of England under a general disability, by reason of their sex, to become attorneys or solicitors. That disability can be, and is, proved by inveterate usage. It could not be removed by a mere interpretation clause, such as the Solicitors Act, 1843, s. 48, which provides that words importing the masculine gender shall extend to a female. There is nothing in the Solicitors Act, 1843, or any amending statute which can be construed as giving women any new right to become solicitors. The disability therefore continues, and the Law Society cannot admit any woman to their preliminary examination with a view to her becoming a solicitor.

Decision of Joyce J. affirmed.

THE plaintiff in this action, a spinster, in December, 1912, filled up and sent to the Law Society a form of notice, issued by the Society, of her intention to present herself at their preliminary examination on February 5 and 6, 1913, with a view to becoming bound by articles of clerkship and ultimately being admitted as a solicitor. She enclosed the requisite fee. The Society returned the fee, and informed her that if she presented herself for examination she would not be admitted, giving the reason that she was a woman, and therefore could not be admitted as a solicitor of the Supreme Court.

The plaintiff then brought this action against the Law Society asking for a declaration that she was a "person" within the meaning of the Solicitors Act, 1843, and the Acts amending the same, and that she ought not to be refused admission to the preliminary examination, and for a mandamus directing the defendant Society to admit her to the examination, or alternatively for an injunction restraining them from refusing to admit her.

The Law Society put in a defence that the refusal to admit the plaintiff, to the examination was in accordance with law, and that the statement of claim shewed no cause of action.

The action came before Joyce J. on July 2, 1913.

Buckmaster, K.C., and *R. A. Wright* appeared for the plaintiff.

Hughes, K.C., and *T. J C. Tomlin* appeared for the defendants.

Joyce J. dismissed the action. (1)

The same arguments were used as in the Court of Appeal and Joyce J. founded his judgment upon the same reasons as are more fully set out in the judgments delivered in the Court of Appeal. It has therefore not been thought necessary to set out the arguments and judgment in the Court below.

Lord Robert Cecil, K.C., and *R. A. Wright*, for the appellant. Unmarried women are not disqualified from being admitted as solicitors. They have prima facie the same legal rights as men; at common law there is nothing to prevent women from being admitted as solicitors; and the statutes on the subject, fairly construed, favour the right of women to be admitted. In Pollock and Maitland's History of English Law, 2nd ed. vol. i. p. 485, it is stated that "as regards private rights women are on the same level as men, though postponed in the canons of inheritance; but public functions they have none. In the camp, at the council board, on the bench, in the jury box there is no place for them." We accept that statement, but the words "public functions" must be defined narrowly. Women have filled many public offices; for instance, there have been Queens of England, and women have been regents; Queen Eleanor acted as Keeper of the Great Seal: Lord Campbell's Lives of the Lord Chancellors, 3rd ed. vol. i. p. 140. Women could hold any office of which they could perform the duties by deputy; for instance the daughter of the Duke of Buckingham acted as Constable of England: *Duke of Buckingham's Case.* (2) A woman could be Marshal and Great Chamberlain. *Rex* v. *Stubbs* (3), where a list of offices held by women is given; governess of a workhouse:

(1) [1913] W. N. 209.
(2) (1569) Dyer, 285 b.
(3) (1788) 2 T. R. 395, 397.

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Anon. (1); sexton: *Olive* v. *Ingram* (2); churchwarden: *Gordon* v. *Hayward.* (3)

[PHILLIMORE L.J. referred to *Shaw* v. *Thompson.* (4)]

There was no absolute rule against women holding any office of which they were capable of performing the duties. They were excluded from military offices, and if they succeeded to any hereditary military office were allowed to appoint deputies. They were not allowed to vote at an election of a member of Parliament for a borough: *Chorlton* v. *Lings* (5); but that depended on the construction of the Representation of the People Act, 1867, and does not shew that women cannot hold a public office. It has been held that women are incapacitated from serving as members of a county council: *Beresford-Hope* v. *Lady Sandhurst.* (6) That decision cannot be right, for it would prevent the appointment of women as post office clerks, or factory inspectors under the Factory and Workshop Act, 1901, ss. 118, 120.

There is no special rule that solicitors must be of the male sex. The manner in which attorneys came to occupy a recognized position is stated in Pollock and Maitland's History of English Law, 2nd ed. vol. i. pp. 212, 213. A woman could act as attorney of her husband: Year Book 13 Edw. 3, Rolls Series, p. 186; and there is nothing in any of the old authorities to shew that a woman could not act as attorney for anybody. On the contrary they did so act: Year Book 18 Edw. 3, Rolls Series, Introduction by L. O. Pike, p. xxxviii.; Select Civil Pleas, published by the Selden Society, vol. i. p. 56, pl. 141; Co. Litt. 52a, 128a. At first anybody could act as attorney, but the practice has since been regulated by statute, beginning in 1322 with 15 Edw. 2, c. 1. Attorneys could only appear in certain Courts and places and counties: Bracton's Notebook by Maitland, vol. ii. p. 283, case 342; vol. iii. p. 335, case 1361. The statutes 4 Hen. 4, c. 18, 33 Hen. 6, c. 7, 3 Jac. 1, c. 7, 6 Geo. 2, c. 27, and others have been passed with respect to attorneys, but they contain nothing which can exclude women. The present position was established by the Solicitors Act, 1843,

(1) (1703) 2 Ld. Raym. 1014.
(2) (1738) 7 Mod. 263.
(3) (1905) 21 Times L. R. 298.
(4) (1876) 3 Ch. D. 233.
(5) (1868) L. R. 4 C. P. 374.
(6) (1889) 23 Q. B. D. 79.

by which every one who complies with the conditions is entitled to be admitted. Sect. 2 speaks of a "person," which includes women. By s. 48 words importing the masculine gender are to apply to a female. The Interpretation Act, 1889, is to the same effect. Therefore women have a right to be admitted unless there was before that date an absolute rule of law disqualifying them. We do not say that the Act of 1843 gave women any fresh rights, but that it recognized their old privileges as did s. 26 of the Solicitors Act, 1860. Examinations by the Law Society were instituted by the Solicitors Acts, 1877 and 1894. Women are permitted to practise as solicitors in many of our colonies and in foreign countries. There is nothing in any of the Acts of Parliament to deprive them of their right to practise here. The general course of legislation is in their favour, e.g., Municipal Corporations Act, 1882, ss. 9, 63; Solicitors Act, 1888, ss. 2, 10; Representation of the People Act, 1832, ss. 19, 20; Juries Act, 1870, s. 5. There is no reason in the nature of things why women should not practise, and the plaintiff is a particularly capable person. A solicitor does not discharge public functions, so there is no objection on that ground: *Hurst's Case* (1); *In re Dutton.* (2) We admit that married women have always been in a different position and have not been treated as entitled to equal rights with men: *Reg.* v. *Harrald* (3); *Pharmaceutical Society* v. *London and Provincial Supply Association.* (4)

Sir Robert Finlay, K.C., *Hughes, K.C.*, and *Tomlin, K.C.*, for the Law Society. It is not suggested the Solicitors Act, 1843, conferred any new rights on women, and it is clear that they never acted as solicitors before that date. The practice which has been followed for hundreds of years is a conclusive answer to the appellant's claim. Ever since attorneys have been established as a profession women have been deemed to be disqualified to act as attorneys. That is a circumstance of the greatest possible weight: *Hall* v. *Incorporated Society of Law Agents* (5); *Miss Bertha Cave's Case.* (6) Women have never been barristers or solicitors. In Co. Litt. 52a and 128a

(1) (1662) 1 Lev. 75.
(2) [1892] 1 Q. B. 486.
(3) (1872) L. R. 7 Q. B. 361.
(4) (1880) 5 App. Cas. 857.
(5) (1901) 3 F. 1059.
(6) (1903) *The Times*, Dec. 3, 1903.

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it is stated plainly that women cannot be attorneys, and the Mirror of Justices, attributed to Andrew Horne (ed. Whittaker, Selden Society, p. 88), is said to be an authority for that statement. The Solicitors Act, 1605 (3 Jac. 1, c. 7), s. 2, confirms this view; and the schedule to the Stamp Act, 1815 (55 Geo. 3, c. 184), in referring to ordinary apprenticeship speaks of the "master or mistress," but refers to the "master" only in articles of clerkship to an attorney. There is nothing in the Solicitors Act, 1843, which confers on women the right to become solicitors. Sects. 35 and 48 are not sufficiently explicit. By Lord Brougham's Act (13 & 14 Vict. c. 21), s. 4, words importing the masculine gender are to include females; but there was something in the subject repugnant to the application of that section inasmuch as women never had been solicitors. The Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 1, is to the same effect; moreover it does not apply to the Act of 1843. The question is settled by long usage: *Chorlton* v. *Lings* (1); *Jex-Blake* v. *Senatus of Edinburgh University* (2), where it was held that females could not be students or graduates of that university on the ground of inveterate usage.

On this point the law was altered by the Universities (Scotland) Act, 1889 (52 & 53 Vict. c. 55), s. 14, sub-s. 6, which enabled the commissioners thereby appointed to make ordinances enabling any Scottish university to admit women to its degrees. But it was held by the House of Lords in *Nairn* v. *St. Andrews University* (3) that women who had been admitted to degrees under that Act could not exercise the parliamentary franchise for the university, because the Legislature could not have intended in so indirect a way to make so great a change in law established by inveterate usage.

De Souza v. *Cobden* (4) is a very strong case, for a woman had actually been elected to a county council, and no one had objected for a year, but the Court of Appeal held that she was liable to the penalties imposed by the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 41, which is incorporated with the Local Government Act, 1888 (51 & 52 Vict. c. 41), under which

(1) L. R. 4 C. P. 374.
(2) (1873) 11 M. 784.
(3) [1909] A. C. 147.
(4) [1891] 1 Q. B. 687.

she had been elected, for acting as a member of the council when disqualified.

The office of attorney or solicitor became a public office as soon as a body was constituted to inquire into the qualifications of applicants. That was done in 1729 by 2 Geo. 2, c. 23, and from the date of that Act the admission of a solicitor qualified him for holding other offices which were unquestionably public, e.g., a master. *Hurst's Case* (1) appears to have been many times before the Court, but the two latest reports in Keble (2) shew that the Court was dealing with the case of an attorney in inferior Courts, not in the Court of Common Bench.

The only solicitors originally were the six clerks in Chancery. Perhaps in very early times they could look after the conduct of the cases, but later the work was done by their deputies. They were known in early times as the six bachelors. In the time of the Commonwealth their number was increased to sixty. (3) The statute 14 & 15 Hen. 8, c. 8 (1523), permitted them to marry. The first statutory mention of solicitors is in 3 Jac. 1, c. 7 (1605). But they were first regulated as a profession by 2 Geo. 2, c. 23, which first required articles of clerkship: see Christian, Short History of Solicitors, p. 111; Kerly, Historical Sketch of the Equitable Jurisdiction of the Court of Chancery, p. 267.

[PHILLIMORE L.J. All the clerks of Chancery were originally in orders of some sort and so were necessarily men.]

During all the centuries for which attorneys and solicitors have been admitted and enrolled there is no case of a woman being admitted, or, so far as can be discovered, of having applied to be admitted.

Lord Robert Cecil, K.C., in reply. Apart from previous history the Act of 1843 would give women a right to be attorneys, just

(1) 1 Lev. 75.

(2) (1663, 1664) 1 Keb. 558, 675.

(3) "Common solicitors" were then inferior to attorneys. See the Rules and Orders for the Court of the Upper Bench at Westminster . . . . (of Michaelmas Term, 1654), Lond. 1655. P. 4, r. 5. "That for the future Common Solicitors be not admitted to practice in this Court, unlesse they are admitted Attornies of either Bench . . . ." (but the qualification for admittance as an attorney of the Court was service either as a common solicitor or as a clerk for five years, r. 6). Cp. Christian, A Short History of Solicitors (1896), pp. 73 seq.—F. P.

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as the Factory Acts gave them a right to be inspectors, unless there was a general disability in women to be attorneys before the Act. The burden is upon the respondents to shew that there was such a general disability in English law and they have not shewn it. In the passage quoted from Co. Litt. 128a, Lord Coke is not expressing his own opinion, but merely quoting from the Mirror of Justices, a work of no authority. (1) At 52a Coke had said that even femes covert could be attorneys to deliver seisin; and in the note to that passage Mr. Hargrave translates "femmes" in the passage from the Mirror as "femes covert."

The only point the respondents make is inveterate usage. But the doctrine of inveterate usage in English law applies only to positive usage, as of merchants.

The cases as to the parliamentary vote are different; any one could vote if the law allowed him. Attorneys from the earliest times required an education which very few women in those times received, and those who did were rich ladies not likely to wish to become attorneys.

In *Jex-Blake* v. *Senatus of Edinburgh University* (2) thirteen judges gave their opinions; six were in favour of the women, seven against them, and Lord Neave founded his opinion wholly on Roman law, which is a good ground in Scotland, but not in England. The case of barristers is different, for the Inns of Court always had a discretion as to whom they would call, subject to an appeal to the judges: *Rex* v. *Benchers of Gray's Inn* (3); *Rex* v. *Benchers of Lincoln's Inn.* (4) No one has a right to be admitted as a student of any of the Inns.

COZENS-HARDY M.R. This appeal raises a very important point as to the right of a woman to be admitted to the profession of a solicitor. It arises in this shape. The plaintiff seeks a mandamus, or an order in the nature of a mandamus, requiring the Law Society to admit her to the preliminary examination. Now the Law Society, of course, is a modern creation of statute. The right which the plaintiff claims against the Law Society depends

(1) The marginal reference to the Mirror in Co. Litt. is wrong and the spelling of the extract corrupt.—F. P.

(2) 11 M. 784.

(3) (1780) 1 Doug. 353.

(4) (1825) 4 B. & C. 855.

upon the Act of 1843; and the argument which has been adduced to us is, shortly, this: Read that Act from beginning to end, and you find that certain statutory obligations are imposed upon the Law Society requiring them to admit any person who comes forward and complies with certain conditions. The plaintiff says, if you look at the end of the Act, namely, s. 48, you will see that "every word importing the masculine gender only shall extend and be applied to a female as well as a male" unless "there be something in the subject or context repugnant to such construction."

Now, it has not really been contended, even if some ambiguous language was used at first by Lord Robert Cecil in his very able argument, that there is anything in the Act of 1843 which destroyed or removed an existing disability, and, in my opinion, all we have to consider here is whether, at the date of the passing of this Act, a woman was under a disability to become an attorney or a solicitor. Now three grounds at least have been alleged to prove such disability. In the first place it is said Lord Coke, in language which, I am bound to say, seems to me not to be as doubtful as has been suggested, 300 years ago said that a woman is not allowed to be an attorney. We have been told that we ought not to pay much attention to that, because Lord Coke refers to the Mirror in this way (Co. Litt. 128a): "Now what manner of men attorneys ought to be, or rather what they ought not to be, heare what antiquity hath said," and then he quotes a passage from the Mirror which expresses that women cannot be attorneys. He was speaking of attorneys, not in the old form in which that phrase might be used, but as attorneys as a professional body regulated by statute. In the very preceding passage he says: "so as the statutes that give the making of attorneyes, have worne out responsales," who were a sort of quasi attorneys. He was, therefore, plainly in the observation which I have referred to, dealing with the profession of attorneys, which profession has been recognized by statute, or was to a large extent, perhaps, created by statute, between 400 and 500 years ago. The Mirror may not be, and I think is not, a work of the highest possible authority (1), but the reference to

(1) See Maitland's introduction to the Selden Society's edition.—F. P.

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the Mirror, and seeing what antiquity has said, does not in the least, in my view, take away from the opinion of Lord Coke, and the opinion of Lord Coke on the question of what is or what is not the common law is one which requires no sanction from anybody else; therefore I think that that alone is evidence of what the common law was, and that there was, at common law, a disability on the part of a woman to be an attorney-at-law.

Then, apart from what Lord Coke says, what have we? In the first place, no woman has ever been an attorney-at-law. No woman has ever applied to be, or attempted to be, an attorney-at-law. There has been that long uniform and uninterrupted usage which is the foundation of the greater part of the common law of this country, and which we ought, beyond all doubt, to be very loth to depart from. I cannot, therefore, but think, although we have listened to a most interesting discussion as to what women can do, and to what extent the office of a solicitor is a public office, and to what extent it is a mere private office, that that discussion is, really, beside the mark.

I decide the case simply on the ground that, in my opinion, there was, at the date of the passing of the Act of 1843, a disability on the part of a woman to be an attorney, and that, that being so, the Act of 1843 confers no fresh and independent right, because it does not destroy a pre-existing disability. We have been asked to hold, what I for one quite assent to, that, in point of intelligence and education and competency women—and in particular the applicant here, who is a distinguished Oxford student—are at least equal to a great many, and, probably, far better than many, of the candidates who will come up for examination, but that is really not for us to consider. Our duty is to consider and, so far as we can, to ascertain what the law is, and I disclaim absolutely any right to legislate in a matter of this kind. In my opinion that is for Parliament, and not for this Court.

The appeal must, in my opinion, be dismissed with costs.

SWINFEN EADY L.J. I am of the same opinion. The very able and most interesting argument that has been addressed to the Court by Lord Robert Cecil has entirely failed to convince

me that the profession of a solicitor is now open to women. The origin of the profession has been traced during the course of the argument. It has been pointed out that, anciently in England, the parties had to appear to a suit in person, and had not the privilege of appearing by any one else. Lord Coke points that out; he says that (1) "by the common law, the plaintiff or defendant, demandant or tenant, could not appeare by attornie without the King's special warrant by writ or letters patents, but ought to follow his suite in his own proper person (by reason whereof there were but few suits)." That was the ancient common law. Then, gradually, in course of time, the profession of an attorney arose; the exact date when there were attorneys by profession has not been made to appear, but they certainly existed as early as 1402, and before that date, because it is in that year, the 4th Hen. 4, that a statute, c. 18, was passed governing attorneys. That statute, after reciting that sundry damages and mischiefs have ensued to divers persons "by a great number of attornies, ignorant and not learned in the law, as they were wont to be before this time," proceeds to enact "that all the attornies shall be examined by the justices, and by their discretions their names put in the roll," or in roll, "and they that be good and vertuous, and of good fame, shall be received and sworn well and truly to serve in their offices, and especially that they make no suit in a foreign county"; i.e., a county other than that in which they are to practise, "and the other attornies shall be put out by the discretion of the said justices." That is the earliest statute to which our attention has been called which refers to a roll, the examination of attorneys, and putting out unsuitable persons. That was upwards of five centuries ago, and from that time to the present, although the position of an attorney has developed, no instance of any woman attorney has, I will not say been brought to our knowledge, but, as far as it is known, ever existed. Then Lord Coke, after dealing with the passage to which the Master of the Rolls has referred (1), says: "Now what manner of

(1) Co. Litt. 128a. [Coke, according to his frequent habit, felt bound to support his living knowledge of practice by citing an apocryphal authority.—F. P.]

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men attorneys ought to be, or rather what they ought not to be, heare what antiquity hath said." Then he quotes from the Mirror: "Fems ne poient estre attorneyes." In my opinion that means women cannot be attorneys; it is not restricted to married women, but is comprehensive, women cannot be attorneys. It is said the authority of the Mirror is impugned. But the authority of Lord Coke is not; and this is a statement that Lord Coke makes, quoting the Mirror, without any dissent whatever from it, but laying it down that that is what the law is which has come down from antiquity, women cannot be attorneys. That was in his time, and then, from that time continuously to the present, there is no instance of any woman being an attorney. Now what is the effect in England of long-continued usage, usage through the centuries without departure in any single instance? Bovill C.J. in *Chorlton* v. *Lings* (1), which is quoted by Lord Ormidale in *Jex-Blake* v. *Senatus of Edinburgh University* (2), puts it in this way. After referring to certain exceptional instances, he says: "But these instances are of comparatively little weight, as opposed to uninterrupted usage to the contrary for several centuries; and what has been commonly received and acquiesced in as the law raises a strong presumption of what the law is, and at least throws upon those who question it the burthen of proving that it is not what it has been so understood to be." In the recent case of the claim of women to vote, being graduates of the University of St. Andrews, the case of *Nairn* v. *St. Andrews University* (3), Lord Loreburn, then Lord Chancellor, stated the law in this way. He said: "It is incomprehensible to me that any one acquainted with our laws or the methods by which they are ascertained can think, if, indeed, any one does think, there is room for argument on such a point. It is notorious that this right of voting has, in fact, been confined to men." Of course he is speaking of voting for a parliamentary representative. "Not only has it been the constant tradition, alike of all the three kingdoms, but it has also been the constant practice, so far as we have knowledge of what has happened from the earliest times

(1) L. R. 4 C. P. 374, 383. (2) 11 M. 784, 814.
(3) [1909] A. C. 147, 160.

down to this day. Only the clearest proof that a different state of things prevailed in ancient times could be entertained by a Court of law in probing the origin of so inveterate an usage. I need not remind your Lordships that numberless rights rest upon a similar basis. Indeed, the whole body of the common law has no other foundation." In my opinion, it is sufficient to rest this case upon the inveterate practice of the centuries that, ever since attorneys as a profession have existed, women have never been admitted to the office, and, in my opinion, that shews what the law is and has been. For these reasons, I am of opinion that the present applicant is not entitled to insist that she has a right to be examined by the Law Society with a view to her entering the profession of solicitors.

We have only to determine what the law is, and if there is to be any change from the ancient practice, it is a change which must be effected by Parliament, and the law must be altered. The appeal fails.

PHILLIMORE L.J. I am of the same opinion. We are not here to say what should be the law, and I disclaim any expression of opinion one way or another as to what should be the law on this subject. Our function is to declare the law; and our first function is to declare the common law of the country. No doubt, in the multiplicity of recent statutes, on many occasions our functions are limited to construing modern statutes, but our first duty is to declare the common law of the country, and we declare that common law according to what we ascertain to be the received inveterate usage of the country. It is in that way that I approach this case.

Now in early days, as researches of counsel have pointed out, when there was no profession of attorney, and when, indeed, except under Royal favour, everybody had to follow his suit in person, no doubt—particularly when, perhaps, the husband might be following the King's suit at war in another country—a woman was occasionally appointed the attorney or representative of a litigant, just as a woman may have a power of attorney to perform acts of conveyancing at the present day, but from the time that attorneys have become a profession, which may be dated

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back at least to the statute of the 4th Henry IV., and from the time that solicitors had become a profession, which may be dated back at least to the statute of 3rd James I., there is no instance of a woman ever being, or its being considered possible that a woman should be, an attorney or a solicitor. Till solicitors received their professional position, I apprehend that the only professional representative or agent of a litigant in the Court of Chancery was one of the six or sixty clerks in the Court of Chancery. It is obvious from the statute that Mr. Hughes has quoted and from other sources that they were always men, because they were always, at least, in minor orders. I have not heard it suggested that the corresponding law agents in the Ecclesiastical and Admiralty Courts, the proctors, were other than men. There is, therefore, a consensus of usage that the law agents of clients in all the Courts of this country have always been men. Lord Coke's quotation from the Mirror is incorrect; the Mirror itself may be of very small value; but the point lies not in the accuracy of the quotation or in the respectability of the authority quoted, but in the incidental statement of Lord Coke's view, and Lord Coke's view is quite clear that women cannot be attorneys. It has been suggested in the Court below that the word "femmes" was appropriate to femes covert, and that the proper word for women generally was mulieres. That has been disclaimed here. Sir Robert Finlay pointed out its almost grotesque incorrectness, and I need say nothing more about it. It is, therefore, clear that Lord Coke so thought. He is only a witness, no doubt, as to the common law, but he is a witness of the highest authority. The Stamp Act of 55 Geo. 3, c. 184, is only evidence again, but it is evidence of weight. But there is no evidence the other way at all; all the evidence teaches us that there is an inveterate usage to the effect that this is a profession which has not been hitherto open to women; and the same arguments which can be applied to destroy the evidence might equally well have been applied, notwithstanding Lord Robert Cecil's distinction, to the claimants to parliamentary franchise or to municipal franchise, till municipal franchise was granted to women. The cases as to women holding certain parochial

offices have been distinguished, on the very occasions when the possibility of their holding them has been upheld, on the ground of there being offices which, in the view of the Courts, were suitable to women. I do not say that this may not be an office suitable to women; what I say is it has never been, in the view of the Courts, suitable to women, and in all the discussions in those cases, in all the quotations with respect to hereditary offices that a woman may hold or her husband may hold in her right, there has never been a suggestion that the office of attorney was one which was open to a woman. The cases as to parochial offices may stand on their own merits; they have really no bearing on this case. A difficulty—I only mention it incidentally—at once arises if a woman is to be admitted an attorney or a solicitor, because it is clear that married women, not having an absolute liberty to enter into binding contracts, binding themselves personally, would be unfitted either for entering into articles or for contracting with their clients. Well, it is true that that difficulty does not apply to single women, but every woman can be married at some time in her life, and it would be a serious inconvenience if, in the middle of her articles, or in the middle of conducting a piece of litigation, a woman was suddenly to be disqualified from contracting by reason of her marriage. I only mention that incidentally; but, having regard to all that I have said, I approach the construction of the statute of the Solicitors Act, 1843, as judges have always been directed to approach such statutes, to construe them with the previous legislation and construe them with the common law. Construing that statute, and the following statutes, with the common law, I come to the conclusion that there is not enough in the statutes to shew that the Legislature intended, by their provisions, to open this profession to women. Therefore I agree that this appeal should be dismissed.

Solicitors: *Withers, Bensons, Birkett & Davies*; *S. P. B. Bucknill.*

J. R. B.